

**Magi-Clean, Inc. and Laborers International Union
of North America, AFL-CIO, Local Union No.
578. Case 27-CA-5265**

March 26, 1981

**SUPPLEMENTAL DECISION AND
ORDER**

On October 31, 1978, the National Labor Relations Board issued an Order¹ adopting, in the absence of exceptions, the Decision of the Administrative Law Judge in Case 27-CA-5265 directing Respondent Magi-Clean, Inc., its officers, agents, successors, and assigns, to, *inter alia*, make whole employee Myrna Terry for any loss of pay suffered by reason of Respondent's discrimination against her. On April 22, 1980, this Order was enforced by the United States Court of Appeals for the Tenth Circuit. A controversy having arisen over the amount of backpay due under the terms of the Order, the Regional Director for Region 27, on July 30, 1980, issued and duly served on Respondent a backpay specification and notice of hearing alleging the amount of backpay due and notified Respondent that it should file a timely answer complying with the Board's Rules and Regulations, Series 8, as amended.

Respondent did not file an answer to the backpay specification, nor did it at any time request an extension of time within which to file an answer. On January 15, 1981, counsel for the General Counsel filed with the Board a Motion for Summary Judgment based upon the failure of Respondent to file an answer to the backpay specification as required by Section 102.54 and 102.54(c) of the Board's Rules and Regulations. The Board, on January 21, 1981, issued an order transferring proceeding to the Board and Notice to Show Cause why the General Counsel's motion should not be granted. Respondent has not filed any response to the Notice To Show Cause.

Upon the entire record in this proceeding, the Board makes the following:

¹ Not reported in volumes of Board Decisions.

Ruling on the Motion for Summary Judgment

Section 102.54 of the Board's Rules and Regulations provides in pertinent part, as follows:

(a) . . . The respondent shall, within 15 days from the service of the specification, if any, file an answer thereto

(c) . . . If the respondent fails to file an answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without notice to the respondent, find the specification to be true and enter such order as may be appropriate

Respondent has failed to file an answer to the backpay specification and has made no response to the Notice To Show Cause. Therefore, the motion to find the backpay specification true is granted, and the obligations of the backpay specification are deemed to be admitted pursuant to Section 102.54(c) of the Board's Rules and Regulations.

Accordingly, we find that the allegations of the specification are deemed to be admitted as true, and that the net amount of backpay due the discriminatee is as stated in the computation in the specification. We hereby order payment thereof.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Magi-Clean, Inc., Grand Junction, Colorado, its officers, agents, successors, and assigns, shall make whole the discriminatee named below by paying her the amount set forth adjacent to her name, plus interest to be computed in the manner specified in *Florida Steel Corporation*, 231 NLRB 651 (1977), until payment of all backpay due, less tax withholding required by Federal and state laws.²

Myrna Terry	\$4,802.31
-------------	------------

² Member Jenkins would award interest on the backpay due based on his dissent in *Olympic Medical Corporation*, 250 NLRB 146 (1980).